

From: Dafud Iza <dafud@fioins.com>
Sent: Tue, 13 Apr 2021 20:49:32 -0400 (EDT)
To: Cory Lloyd <cory@fioins.com>
Subject: LeivaD_T2-134462-TAL_20210413.pdf
Attachments: LeivaD_T2-134462-TAL_20210413.pdf

Dafud Iza

**GOVERNMENT
EXHIBIT**

181

25-CR-80015-DMM

DEPARTMENT OF HEALTH & HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR PROGRAM INTEGRITY



April 13, 2021

DANIELA LEIVA
2300 SE MONTEREY RD STE 200
STUART FL 34996

Letter Code: T2-134462-TAL

Re: ATTENTION—Complaints received about NPN 18589184; please review agreements and educational materials

Dear Daniela Leiva:

The Centers for Medicare & Medicaid Services (CMS) develops and enforces rules regarding the interactions of consumers, insurance agents, brokers, and other enrollment assisters with the Federally-Facilitated Exchange (FFE) and State-Based Exchanges that rely on the Federal Platform for select eligibility and enrollment functions (“SBE-FPs”) (collectively referred to as “Exchanges” or “Marketplaces”). Through the Center for Program Integrity (CPI), CMS provides oversight and internal controls to protect consumers, safeguard taxpayer dollars, promote compliance with Exchange rules and requirements, and detect and deter fraud, waste, and abuse.

We have received multiple complaints from consumers whose Plan Year 2019-2021 Marketplace applications or policies are associated with your name or National Producer Number (NPN), but you are not under investigation nor are any actions being taken by CMS against you at this time.¹ The purpose of this letter is not to reprimand you, but rather to remind you of certain terms of your agreements² with CMS and to ask you to review relevant educational information before assisting consumers with additional enrollments. For reasons related to the Privacy Act of 1974, 5 U.S.C. § 552a, we may not disclose the personally identifiable information (PII) of consumers who submitted complaints, but we can share with you the nature of the complaints at this time.

¹ This letter should not be construed as a CMS oversight or enforcement action, or as a final decision of the agency with regard to any issues outlined in this letter. CMS is providing this letter as technical assistance to support the recipient’s compliance with requirements under applicable CMS regulations and the FFE Agent/Broker Agreements. CMS reserves the right to initiate an investigation or enforcement action regarding the matters outlined in this letter, and this letter should not be construed to waive any such rights.

² Agreements include the *Agent Broker General Agreement for Individual Market Federally-Facilitated Exchanges and State-Based Exchanges on the Federal Platform*, the *Agreement between Agent or Broker and the CMS for Individual Market Federally-Facilitated Exchanges and the State-Based Exchanges on the Federal Platform*, and/or the *Small Business Health Options Program (SHOP) Privacy and Security Agreement*.

Nature of Complaints Received

The following provides details about the nature of complaints received from consumers:

- 19 complaint(s) allege(s) that individuals were enrolled without their consent or knowledge into qualified health plans offered through an Exchange, and CMS has your NPN as the NPN of record for these policies. Complaints of this nature may indicate a less than full awareness of regulatory requirements at 45 C.F.R. § 155.220(d)(3) and (j)(2), 45 C.F.R. § 155.227, 45 C.F.R. § 155.260(b), and 45 C.F.R. § 155.285.
- 3 complaint(s) allege(s) that, without the consumers' knowledge or consent, incorrect information was intentionally entered on Marketplace applications or was changed after the applications were submitted, and CMS has your NPN as the NPN of record for these applications. Examples of such information include household income, contact information, smoking status, and family composition. Complaints of this nature may indicate a less than full awareness of regulatory requirements at 45 C.F.R. § 155.220(d)(3), (j)(2)(ii), and (iv); 45 C.F.R. § 155.260(b)(3); and 45 C.F.R. § 155.285.
- 1 complaint(s) allege(s) that consumers' enrollments in qualified health plans offered through an Exchange were cancelled without their knowledge or consent, and CMS has your NPN as the NPN of record for these policies. Complaints of this nature may indicate a less than full awareness of regulatory requirements at 45 C.F.R. § 155.220(d)(3) and (j)(2), 45 C.F.R. § 155.227, 45 C.F.R. § 155.260(b), and 45 C.F.R. § 155.285.
- 1 complaint(s) associated with your name or NPN allege(s) that the assister's marketing practices are misleading, coercive, and/or discriminatory in nature. Complaints of this nature may indicate a less than full awareness of regulatory requirements at 45 C.F.R. § 155.220(j)(2)(i) and (v).

In accordance with CMS policy, CMS worked with the relevant issuers to research these complaints using established criteria. To date, with CMS consent, the issuers approved the cancellation of 11 policies.

Please review important educational materials related to the complaints received

Staying up-to date on CMS guidance is critical. CMS encourages you to refresh your knowledge of your agreements with CMS, including the requirements for being registered with the FFM and protecting PII. Prior to assisting consumers with additional enrollments, please review the following educational webinars:

- Compliance with Marketplace Requirements: Considerations for Agents and Brokers (<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/AB-ComplianceRequirementsSlides-May242018.pdf>).
- Part II: Marketplace Privacy & Security Requirements for Agents and Brokers (<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/AB-PrivacySecurityPtII-Slides-June212018.pdf>).

These materials and other resources, including monthly newsletters for agents and brokers, can be found on the Agent Broker Resources Web Page (<http://go.cms.gov/CCIIOAB>).

You are not required to respond to this letter. However, if you have questions about this letter, registering with the FFM, general Exchange enrollment-related issues, and/or available training opportunities, please contact the Agent/Broker Email Help Desk at FFMProducer-AssisterHelpDesk@cms.hhs.gov and reference Letter Code T2-134462-TAL in your email.

Thank you in advance for your attention to this letter.

Sincerely,

/s/

Jennifer Dupee, RN, JD, MSN, MBA
Director, Audits & Vulnerabilities Group (AVG)
Center for Program Integrity (CPI)

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